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Update on the Affordable Care Act

by

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It's a pleasure to speak with you today on the Affordable Care Act and what it means to Tribes, American Indian and Alaska Native patients, and the Indian health care system. On Tuesday, I gave an update on what we are doing to change and improve the Indian Health Service (IHS), including progress on our priorities. What we are doing related to the Affordable Care Act and the Indian Health Care Improvement Act (IHCIA) is a part of our second priority.

Health reform has been a priority of President Obama since the campaign – the goals have been to increase access to high-quality, affordable health care; provide security and stability for those who have insurance; and reduce health care costs.

And now these goals are being actively addressed with the passing of the health care reform law, the Affordable Care Act, which President Obama signed into law on March 23, 2010. As part of that law, the IHCIA has been permanently reauthorized! After 10 long years of hard work by many, including our tribal leadership, this is a major victory for Indian Country. The new law has numerous provisions that will positively impact IHS and tribal healthcare programs and the patients we serve.

One of the most common questions we get is, "How will health care reform help American Indians and Alaska Natives?"

Health care reform is mostly about increasing access to affordable health insurance. While many American Indians and Alaska Natives are covered by IHS, many do not have access to the IHS, especially in urban areas, or some may want to purchase insurance as an alternative to IHS.

The new law means that individuals and small businesses will have more affordable options for health insurance through the creation of state-based Exchanges by 2014. They will be able to compare health insurance plans in their state and purchase more affordable insurance. This should result in 32 million more Americans being covered. This means that American Indian and Alaska Native individuals or small businesses that want to purchase health insurance will have more affordable options than they do now. This is particularly important for those who do not have access to IHS coverage and/or do not have access to insurance with their job.

Also, there will be no cost sharing for insurance purchased through the exchanges – that means no co-pays or deductibles – for Indian patients whose incomes are less than 300% of the poverty level.

And American Indians and Alaska Natives are exempt from tax assessments for not enrolling in an exchange plan. This was the first provision in the health reform law that the President publicly supported for American Indians and Alaska Natives – they are exempt from the penalty due to health care being "owed to them."

Another provision in the Affordable Care Act will expand Medicaid coverage to individuals with incomes up to 133% of the poverty level starting in 2014. This should help many American Indians and Alaska Natives in our communities.

All of these provisions mean that our patients, American Indians and Alaska Natives, will have more choices – to use IHS, and/or to purchase more affordable health insurance. It does not mean that the IHS will go away. That was a myth. And it means that the entire Indian health system – Tribes and IHS facilities - may benefit from reduced health care costs, more choices, and better coverage. If more American Indians and Alaska Natives are covered by health insurance and they choose to use IHS, it could mean more third-party reimbursements.

The challenge is that as more patients have the choice of where they can receive their health care, IHS must become more competitive. IHS must demonstrate that it delivers quality health care and provides excellent customer service. So the work IHS is doing to change and improve is even more important now.

Provisions in the Affordable Care Act that have already been implemented in 2010 include:

- Extended insurance coverage for young adults under age 26 – previously they were not covered and usually could not afford insurance;
- Extended reinsurance for early retirees ages 55-64;
- Access to insurance for those who were uninsured due to pre-existing conditions (Pre-existing Condition Insurance Plan);
- Provision of checks to seniors who reached the Medicare Part D "donut hole" – while only a small proportion of American Indians and Alaska Natives purchase this coverage, it does help some;
- Establishment of a new "Patient's Bill of Rights" that includes a number of insurance protections that actually kick in today, including:
  - No discrimination against children with pre-existing conditions;
  - Elimination of lifetime limits on insurance coverage;
- Small business tax credits;
- Efforts to crack down on healthcare fraud; and
- Creation of Healthcare.gov – a website with information on insurance plan choices and other information for consumers. It even references IHS as an option for those who are eligible.

And the IHCIA was included in the Affordable Care Act – which is great for Indian Country because this law is the main legislation that authorizes Congress to fund health care services for American Indians and Alaska Natives. And it ***permanently*** reauthorizes the IHCIA.

The IHCIA updates and modernizes the IHS. The provisions are numerous but many of them give IHS new authorities. This includes:

- Authorities for the provision of long-term care services;
- New and expanded authorities for mental and behavioral health prevention and treatment services;
- New and expanded authorities for urban Indian programs;
- Authorities for various demonstration projects, including innovative health care facility construction and health professional shortages*;*
- The authority for provision of dialysis services;
- Authorities to improve the Contract Health Services program;
- And authorities to improve facilitation of care between IHS and the Department of Veterans Affairs.

These are just examples of what is in the new law. Another common question we are getting, beyond what is in the new law, is about what we plan to do to implement the provisions in the IHCIA.

The Department of Health and Human Services (HHS) is taking the lead on implementation of health care reform in general, and IHS is working closely with HHS on the provisions that impact American Indians and Alaska Natives. The IHS is also taking the lead on implementation of the IHCIA.

It is clear that we cannot implement the entire law all at once and that this will need to occur over time. We are working very hard on reviewing provisions and developing next steps and timelines. Some provisions are immediate, and some require funding or additional work.

The IHS and HHS also must take time to consult with Tribes on this important new law. We must consult in a meaningful but efficient way so implementation can move forward. We are working very quickly, but also very carefully – we want to do this right the first time.

The HHS and IHS initiated consultation with Tribes on the Affordable Care Act and the reauthorization of the IHCIA in May with a letter to Tribes requesting input on the process for consultation and priorities for implementation. The input we have received to date makes it clear that Tribes want to be consulted before policy decisions are made. HHS and IHS will announce plans for consultation with Tribes on a regular basis.

We recognize that education and communication are priorities at this time. So we are taking step to keep everyone informed:

- You can find updates on our implementation process on my Director's Blog at ihs.gov;
- HHS just unveiled a new website – healthcare.gov – that helps the public understand how health reform benefits them;
- We are using Dear Tribal Leader Letters to keep you updated – HHS and IHS sent a letter to tribal leaders in May requesting consultation on health reform and the IHCIA that included a fact sheet and tables that summarize the provisions relevant to Indian country;

- In July, I sent a letter to Tribes that summarized some provisions that are already in effect or were self-implementing; and
- We will soon be announcing more self-implementing provisions and initiating some consultation activities on some topics of great interest, including the Federal Employees Health Benefits (FEHB) program provision and the Special Provisions for Indians related to the State Exchanges.

I encourage you to learn everything you can about this important new law and its impact on Indian health care.

I would like to give some examples from the letter that we sent to tribal leaders in July explaining some provisions in the IHCIA that are self-implementing – that require little to no implementation. This is the first in a series of letters to Tribes with this type of information.

One example of a self-implementing provision includes Section 113 – exemption from payment of certain fees. This requires federal agencies to exempt Tribes from paying licensing, registration, or other fees imposed by federal agencies. Because of this new law, the Drug Enforcement Administration (DEA) will no longer charge tribal providers a fee to prescribe controlled substances. The DEA has already notified its field offices of the new law. So there is nothing else to do to implement this provision; i.e., it is self-implementing.

I encourage you to review the letter if you have not already done so. Here is the list of sections that are mentioned in the letter:

- Title I, Subtitle A, Indian Health Manpower
  - Section 113, Exemption from payment of certain fees
- Title I, Subtitle B, Health Services
  - Section 125, Reimbursement from certain third parties of costs of health services
  - Section 126, Crediting of reimbursements
  - Section 127, Behavioral health training and community education
  - Section 129, Patient Travel Costs
  - Section 135, Liability for payment
- Title I, Subtitle D, Access to Health Services
  - Section 151, Treatment of payments under Social Security Administration health benefits
  - Section 156, Nondiscrimination under federal health care programs
  - Section 157, Access to Federal Insurance
- Title I, Subtitle E, Health Service for Urban Indians
  - Section 162, Treatment of certain demonstration projects (Tulsa, Oklahoma City)
  - Section 171, Establishment of the IHS as an Agency of the Public Health Service

Section 157, Access to Federal Insurance, was indentified by Tribes as a top priority for implementation. This provision allows Tribes, tribal organizations, or urban Indian organizations to purchase coverage for their employees from the FEHB program. While the authority was present on the day the law was passed, a mechanism needs to be developed to administer this option. The IHS is assisting the Office of Personnel Management to implement this provision, and Tribes will be consulted on this topic in the near future.

In summary, the Affordable Care Act will help Tribes and the IHS provide better health care to American Indian and Alaska Native people by making more resources available and reducing costs of services. And the reauthorization of the IHCIA will help update and modernize the IHS.

The IHS is working to ensure all provisions pertaining to Indian health care are understood and all benefits are accessed. We are also committed to consulting with Tribes as we move forward in the weeks, months, and years ahead. We will keep you updated on opportunities to consult. We all want to take full advantage of all opportunities afforded by the Act to help improve the health status of the people we serve.

Thank you.